



INVENTOR: Donald L. Brownewell
APPLICATION: 10/055,738
FILING DATE: 1/25/2002

EXAMINING GROUP: 3727
EXAMINER: Joseph C. Merek

Commissioner of Patents
United States Department of Commerce
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

On Friday December 10, 2004 I received a call from Mr. Joseph C. Merek stating that my patent application was going to be considered abandoned do to lack of response to a letter for detailed action sent to me on June 8, 2004. I explained that I had responded with a letter post marked June 24, 2004 and that I have proof with a "Return Receipt" from the US Post Office. Mr. Merek stated that he thought he saw the reply before it went "upstairs". He stated that I need to send a request immediately to the Commissioner of Patents and request that my application be "revived".

I am petitioning, requesting and asking.... Please Revive My Application on the following grounds:

- 1) I received Mr. Merek June 4, 2004 request for detailed action at my new address on June 21. Attachment I is a copy of that Request along with a copy of the envelope.
- 2) A response generated by my legal counsel was mailed on June 24, 2004 with a "Return Receipt" purchased and requested. Attachment II is a "True Copy" of that supplied to the Patent office on June 24, 2004.
- 3) I have proof that my response was received on July 6, 2004. Attachment III provides copies of my purchase receipt and the front and backside of the Return Receipt.

Thank you for your prompt assistance.

Respectfully submitted,

Donald L. Brownewell
431 62nd Street
Holmes Beach, FL 34217
Dec. 13, 2004



ATTACHMENT I

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, 14-21, drawn to a container, classified in class 206, subclass 503.
- II. Claims 11 and 12, drawn to an apparatus for making a container, classified in class 29, subclass 33R.
- III. Claim 13, drawn to a method of making a container, classified in class 29, subclass 592.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed could be made by a materially and different process. The container would be formed by molding or casting.

Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this

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circumferential formation could be formed in the container as it is molded, i.e. by a static mold.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Upon election of Group I above further election is required as set forth below.

- A. Claims 1-10 and 21, drawn to a container, classified in class 206, subclass 503.
- B. Claims 14-16, drawn to a base for a container, classified in class 248, subclass 127.
- C. Claims 17-20, drawn to a container body, classified in class 220, subclass 604.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not claim the "generally circularly shaped rim" or the inside surface having a convex projection". The subcombination has separate utility such as being a paperweight, or a throwing toy.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does require the circumferential formation is concave. The subcombination has separate utility such as a paperweight or a throwing toy.

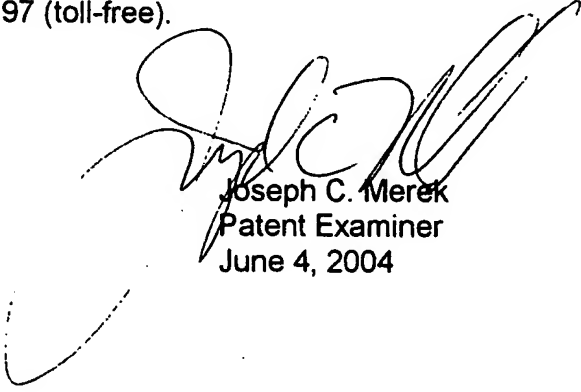
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek
Patent Examiner
June 4, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,738	01/25/2002	Donald L. Brownewell		7394

7590 06/09/2004
DONALD L. BROWNEWELL
504 Abney Street
Saint Albans, WV 25177

EXAMINER

MEREK, JOSEPH C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

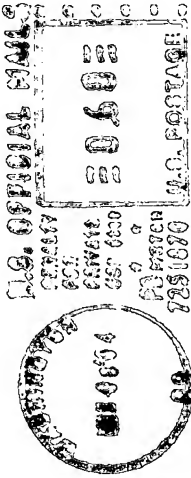
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BROWSO4 251773102 1803 08 06/15/04
NOTIFY SENDER OF NEW ADDRESS
BROWNEWELL
43132ND ST
HOLMES BEACH FL 34217-1543

251773102 12





ATTACHMENT II



INVENTOR: Donald L. Brownewell
APPLICATION: 10/055,738
Merek
FILING DATE: 1/25/2002

EXAMINING GROUP: 3727
EXAMINER: Joseph C.

Commissioner of Patents
United States Department of Commerce
U.S. Patent and Trademark Office
P.O. Box 1450
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ELECTION

Responsive to the Office Action letter of June 4, 2004, mailed June 9, 2004, the applicant elects the Group I restriction of Claims 1-10 and 14-21.

REMARKS

The applicant traverses the sub-restriction requirements of Group I, A, B, or C, because a search and examination of the container of claim 1 comprising a body and a base will of necessity require a search and examination of the body of claim 14 and the base of claim 17. The applicant respectfully submits that the elements of the body in claim 14 are substantially the same as the body in the independent claim 1 and the elements of the base in claim 17 are substantially the same as the base in the independent claim 1. Accordingly, the applicant respectfully submits that the sub-restriction requirement of A, B, or C is improper and should be withdrawn and all of Group I claims fully examined. To avoid an unresponsive response, the applicant provisionally elects Group 1A with vehement traverse.

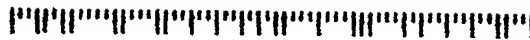
The practice of the instant invention, application 10/055,738, requires both elements of body and base, and either would be economically useless without the other. The inclusion of claim 14 and claim 17 as independent claims provides the protection against parties who might separately construct the instant articles to circumvent the invention and then have a third party (the customer) assemble them. Such a situation would be practically impossible for a practitioner of the invention to police and gain remedy.

Respectfully submitted,

Donald L. Brownewell
431 62nd Street
Holmes Beach, FL 34217



Attachment III

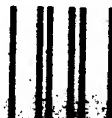


05

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431 62nd St.
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2. Article Number
(Transfer from service label) 7002 0460 0000 0966 7896

3. Service Type
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X ☐ Agent ☐ Addressee

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If YES, enter delivery address below: ☐ No

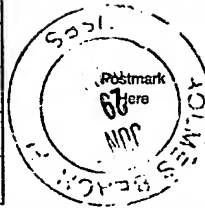
PS Form 3811, August 2001 Domestic Return Receipt 102505-02-44-1540



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